

TAB

OGC Has Reviewed

14 September 1955

MEMORANDUM FOR THE RECORD

SUBJECT: Missing Persons Act - Discussion with Department of Defense

REFERENCE: Memorandum for the Record, Office of General Counsel, dated 9 September 1955

1. The referenced memorandum discussed certain aspects of the draft permanent Missing Persons Act submitted to the Bureau of the Budget by the Department of Defense. In discussion between this Office and the Office of Personnel, agreement was reached as to certain points which it would be advisable for this Agency to seek to incorporate in the Act.

2. We now propose that the Legislative Counsel should consult with the Legislative Counsel of the Department of Defense in order, if possible, to secure their support of the points proposed by us.

3. The points we would like to raise are three in number:

(a) For the language of section 1 (a)(3) of the present draft, pertaining to coverage of civilians under the Act, we would like to substitute the following language:

"(3) Civilian officers and employees of the departments, wherever serving, except that part-time, hourly or intermittent employees who are residents at or in the vicinity of their places of employment shall be included only upon a determination by the head of the department concerned that the status of missing, missing in action, interned in a foreign country, captured by a hostile force, beleaguered by a hostile force, or besieged by a hostile force, within the meaning of section 2 of this Act, was the proximate result of employment by the department."

(b) We would like to add to the Act a section providing for the determination of status of dependents:

"A dependent of any person in active service, as defined by this Act, is a 'person' under this Act for the sole purpose of determining status as provided in sections 5 and 9,

and any determination under those sections by the head of the department concerned shall be conclusive on all other departments of the Government; Provided, that nothing in this section shall be construed as conferring upon any dependent any right to pay, allowances or other compensation to which not otherwise entitled."

(c) We believe that the language of the present Act, also embodied in the draft permanent Act (at line 12 of page 2 of Tab C), "or may become entitled thereafter", permits agency heads to establish promotion policy for individuals in a missing status. If either the Department of Defense or the Bureau of the Budget disagrees with this interpretation, we intend to explore the possibility of inserting additional language in the Act which would permit the establishment of such a policy.

4. We do not consider it advisable that the Act should make any special provisions for this Agency. It would be preferable if the general provisions can be so phrased as to satisfy this Agency's requirements. In the opinion of this Office, the draft Act, except for the three points raised above, will satisfy the requirements of the Agency.

LAWRENCE R. HOUSTON
General Counsel

CONCURRENCE:

Director of Personnel

Comptroller

OGC:RFB:mz

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